Commission Implementing Regulation (EU) 2019/1948 of 25 November 2019 initiating an investigation concerning possible circumvention of anti-dumping measures imposed by Commission Implementing Regulation (EU) 2018/186 on imports of certain corrosion resistant steels originating in the People's Republic of China, and making such imports subject to registration

COMMISSION IMPLEMENTING REGULATION (EU) 2019/1948

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council on protection against dumped imports from countries not members of the European Union[(1)] and in particular Articles 13(3) and 14(5) thereof,

After having informed the Member States,

Whereas:

A. EX OFFICIO INVESTIGATION

(1) The European Commission ('the Commission') has decided on its own initiative, pursuant to Articles 13(3) and 14(5) of Regulation (EU) 2016/1036 ('the basic Regulation'), to investigate the possible circumvention of the anti-dumping measures imposed on imports of certain corrosion resistant steels originating in the People's Republic of China and to make such imports subject to registration.

B. PRODUCT

(2) The product concerned by the possible circumvention is flat-rolled products of iron or alloy steel or non-alloy steel; aluminium killed; plated or coated by hot dip galvanisation with zinc and/or with aluminium, and no other metal; chemically passivated; containing by weight: 0,015 % or more but not more than 0,170 % of carbon, 0,015 % or more but not more than 0,100 % of aluminium, not more than 0,045 % of niobium, not more than 0,010 % of titanium and not more than 0,010 % of vanadium; presented in coils, cut-to-length sheets and narrow strips.

The following products are excluded:

— of stainless steel, of silicon-electrical steel, and of high-speed steel,

— not further worked than hot-rolled or cold-rolled (cold-reduced).

The product concerned is currently falling under CN codes ex 7210 41 00, ex 7210 49 00, ex 7210 61 00, ex 7210 69 00, ex 7212 30 00, ex 7212 50 61, ex 7212 50 69, ex 7225 92 00, ex 7225 99 00, ex 7226 99 30 and ex 7226 99 70 (TARIC codes: 7210 41 00 20, 7210 49 00 20, 7210 61 00 20, 7210 69 00 20, 7212 30 00 20, 7212 50 61 20, 7212 50 69 20, 7225 92 00 20, 7225 99 00 22, 7225 99 00 92, 7226 99 30 10, 7226 99 70 94) and originating in in the People's Republic of China ('the product concerned'). This is the product to which the measures that are currently in force apply.

The product under investigation for possible circumvention is certain corrosion resistant steels. These are flat-rolled products of iron or alloy steel or non-alloy steel; plated or coated by hot dip galvanisation with zinc and/or aluminium and/or magnesium, whether or not alloyed with silicon; chemically passivated; with or without any additional surface treatment such as oiling or sealing; containing by weight: not more than 0,5 % of carbon, not more than 1,1 % of aluminium, not more than 0,12 % of niobium, not more than 0,17 % of titanium and not more than 0,15 % of vanadium; presented in coils, cut-to-length sheets and narrow strips, currently falling under CN codes ex 7210 41 00, ex 7210 49 00, ex 7210 61 00, ex 7210 69 00, ex 7210 90 80, ex 7212 30 00, ex 7212 50 61, ex 7212 50 69, ex 7212 50 90, ex 7225 92 00, ex 7225 99 00, ex 7226 99 30, ex 7226 99 70 (TARIC codes: 7210 41 00 30, 7210 49 00 30, 7210 61 00 30, 7210 69 00 30, 7210 90 80 92, 7212 30 00 30, 7212 50 61 30, 7212 50 69 30, 7212 50 90 14, 7212 50 90 92, 7225 92 00 30, 7225 99 00 23, 7225 99 00 41, 7225 99 00 93, 7226 99 30 30, 7226 99 70 13, 7226 99 70 93), originating in the People's Republic of China ('the product under investigation').

The following products are excluded:

— of stainless steel, of silicon-electrical steel, and of high-speed steel,

— not further worked than hot-rolled or cold-rolled (cold-reduced),

— the product concerned as defined in recital 2 above.

C. EXISTING MEASURES

(3) The measures currently in force and possibly being circumvented are anti-dumping measures imposed by Commission Implementing Regulation (EU) 2018/186[(2)] ('the existing measures').

D. GROUNDS

(4) The Commission has at its disposal sufficient evidence that the existing anti-dumping measures on imports of the product concerned originating in the People's Republic of China are being circumvented by slight modifications of the product concerned.

(5) More specifically, TARIC statistics show that a significant change in the pattern of trade involving exports from the People's Republic of China to the Union has taken place following the imposition of the definitive anti-dumping duty on the product concerned imposed by Commission Implementing Regulation (EU) 2018/186.

This change appears without sufficient due cause or economic justification for such a change other than the imposition of the duty.

(6) In addition, the evidence points to the fact that this change stems from the importation of the slightly modified product concerned, for example by applying a thin oil-coating, by slightly increasing the content of carbon, aluminium, niobium, titanium, or vanadium, or by changing the coating from simple zinc or aluminium coatings e.g. to zinc-magnesium-aluminium coating. The *prima facie* evidence demonstrates that there is no due cause or economic justification other than the imposition of the duty for such practice, process or work.

(7) Furthermore, the Commission obtained sufficient *prima facie* evidence that the remedial effects of the existing anti-dumping measures on the product concerned are being undermined both in terms of quantity and price. Significant volumes of imports of the product under investigation appear to have replaced imports of the product concerned. In addition, there is sufficient prima facie evidence that imports of the product under investigation are made at prices below the non-injurious price established in the investigation that led to the existing measures.

(8) Finally, the Commission obtained sufficient *prima facie* evidence that the prices of the product under investigation are dumped in relation to the normal value previously established.

(9) Should circumvention practices covered by Article 13 of the basic Regulation, other than the one mentioned above, be identified in the course of the investigation, the investigation may also cover these practices.

E. PROCEDURE

(10) In light of the above, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 13(3) of the basic Regulation and to make imports of the products under investigation subject to registration, in accordance with Article 14(5) of the basic Regulation.

(a) Questionnaires

(11) In order to obtain information it deems necessary for its investigation, the Commission will send questionnaires to the known exporters/producers and to the known associations of exporters/producers in the People's Republic of China. Information, as appropriate, may also be sought from the Union industry.

(12) In any event, all interested parties should contact the Commission forthwith, but not later than the time-limit set in Article 3(2) of this Regulation. The time-limit set in Article 3(2) of this Regulation applies to all interested parties.

(13) The authorities of the People's Republic of China will be notified of the initiation of the investigation.

(b) Collection of information and holding of hearings

(14) All interested parties including the Union industry, importers and any relevant association are invited to make their views known in writing and to provide supporting evidence provided that such submissions are made within the deadline provided for in Article 3(2). Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

(c) **Exemption from registration of imports or measures**

(15) In accordance with Article 13(4) of the basic Regulation, imports of the product under investigation may be exempted from registration or measures if the importation does not constitute circumvention.

F. **REGISTRATION**

(16) Pursuant to Article 14(5) of the basic Regulation, imports of the product under investigation shall be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, anti-dumping duties of an appropriate amount can be levied from the date on which registration of such imports was imposed.

G. **TIME-LIMITS**

(17) In the interest of sound administration, time-limits should be stated within which:

— interested parties may make themselves known to the Commission, present their views in writing and submit questionnaire replies or any other information to be taken into account during the investigation,

— interested parties may make a written request to be heard by the Commission.

(18) Attention is drawn to the fact that the exercise of procedural rights set out in the basic Regulation depends on the party's making itself known within the time-limits laid down in Article 3 of this Regulation.

H. **NON-COOPERATION**

(19) If any interested party refuses access to or does not provide the necessary information within the time-limits, or significantly impedes the investigation, findings, affirmative or negative, may be made on the basis of facts available in accordance with Article 18 of the basic Regulation.

(20) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of facts available in accordance with Article 18 of the basic Regulation.

(21) If an interested party does not cooperate or cooperates only partially and findings are therefore based on the facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

I. **SCHEDULE OF THE INVESTIGATION**

(22) The investigation will be concluded, pursuant to Article 13(3) of the basic Regulation, within nine months of the date of entry into force of this Regulation.

J. PROCESSING OF PERSONAL DATA

(23) It is noted that any personal data collected in this investigation will be treated in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data[3].

(24) A data protection notice that informs all individuals of the processing of personal data in the framework of Commission's trade defence activities is available on DG Trade's website: http://ec.europa.eu/trade/policy/accessing-markets/trade-defence/

K. HEARING OFFICER

(25) Interested parties may request the intervention of the Hearing Officer in trade proceedings. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and any other request concerning the rights of defence of interested parties and third parties as may arise during the proceeding.

(26) The Hearing Officer may organise hearings and mediate between the interested party/-ies and Commissions services to ensure that the interested parties' rights of defence are being fully exercised.

(27) A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. The Hearing Officer will examine the reasons for the requests. These hearings should only take place if the issues have not been settled with the Commission services in the due course.

(28) Any request must be submitted in good time and expeditiously so as not to jeopardise the orderly conduct of proceedings. To that effect, interested parties should request the intervention of the Hearing Officer at the earliest possible time following the occurrence of the event justifying such intervention. In principle, the timeframes set out in Article 3 to request hearings with the Commission services apply *mutatis mutandis* to requests for hearings with the Hearing Officer. Where hearing requests are submitted outside the relevant timeframes, the Hearing Officer will also examine the reasons for such late requests, the nature of the issues raised and the impact of those issues on the rights of defence, having due regard to the interests of good administration and the timely completion of the investigation.

(29) For further information and contact details interested parties may consult the Hearing Officer's web pages on the Directorate-General for Trade's website: http://ec.europa.eu/trade/trade-policy-and-you/contacts/hearing-officer/,

HAS ADOPTED THIS REGULATION: